

INDEPENDENCE DAY?

THADA promises uniformity, fairness in medication oversight

BY FRANK ANGST



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Believing his organization would benefit horsemen if allowed to guide a new approach to medication oversight in racing, United States Anti-Doping Agency (USADA) chief executive officer Travis Tygart is asking trainers to evaluate what an independent agency would mean for them and the sport.

Tygart knows political lines have been drawn, but he believes that if federal legislation aiming to move medication oversight from state regulators to a new authority guided by USADA becomes reality, independent oversight will provide rule-following horsemen new levels of fairness. Tygart said the new organization would offer consistency in rules, enforcement, and laboratories without the politics of the current regulatory framework. Under the Thoroughbred Horseracing Integrity Act of 2015 introduced July 16 by Reps. Andy Barr (R-Ky.) and Paul Tonko (D-N.Y.), any racetracks that participate in simulcast

wagering would accept medication oversight by a new entity—the Thoroughbred Horseracing Anti-Doping Authority.

Under the legislation, THADA would be an independent organization comprising of the USADA CEO—currently Tygart—five USADA board members, and five individuals who would be nominated from different constituencies of the Thoroughbred industry and appointed by USADA. Industry board members would be required to have no financial interest or provide goods and services to racing, nor could they be officers for a group that makes policy for Thoroughbred racing nor be an employee of a business with a

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commercial relationship to any individual or company active in Thoroughbred racing.

THADA would be an independent, self-sustaining organization, like USADA. This structure is one reason USADA has been trusted to manage drug testing in 48 Olympic sports, and in June was approved to oversee the Ultimate Fighting Championship testing program, according to Tygart.

A 227-page report from the Cycling Independent Reform Commission this year documents pitfalls that can derail a sport attempting to police its drug issues. According to the report, administrators shaped decisions to avoid scandal. The

report determined two former International Cycling Union (UCI) presidents “turned a blind eye to anything but the worst excesses,” provided favorable decisions to stars such as Lance Armstrong, and colluded to cover up positive tests at the 1999 Tour de France.

Tygart believes similar conflicts occur in horse racing where state regulators oversee drug testing. He said their decisions could be influenced by attempting to avoid scandal for a sport that brings money to the state. He notes that many stewards are former horse racing participants. Racing commissioners often are former, or even current, participants. Tygart believes such a set-up is susceptible to decisions made for political interests, favoritism toward friends, or previous acrimony.

“We care about clean athletes. At the end of the day, clean athletes’ rights ought to be protected,” Tygart said. “If there are sports out there that want our expertise, our experience, want us to help protect the rights of their athletes’ health and safety, then we’re happy to do what we can to help.”

Because he believes trainers are at the current arrangement’s mercy, it somewhat surprises Tygart that the country’s two largest horsemen’s organizations, the National Horsemen’s Benevolent and Protective Association and the Thoroughbred Horsemen’s Association, have not supported the legislation.

“The right side of the issue is independence, uniformity, and even and fair enforcement. If a horseman argues against that, it makes me think you’re doing something to exploit the loopholes right now that benefit you,” Tygart said. “That’s not a good reason not to get on the side of the angels on this one.”

While National HBPA chief executive officer Eric Hamelback acknowledged conflict-of-interest concerns exist in the current framework, he said there also are dangers in being regulated by a group without a background in horse racing.

“At the end of the day, you have to go with people who have that experience,” Hamelback said.

If THADA becomes reality, Hamelback said it would be important to have well-balanced board representation. He noted there would need to be checks and balances, term limits, and ways to remove board members. He’d be concerned that USADA, which does not oversee equine testing in Olympic equestrian

sports, would not be familiar enough with horse racing, specifically its policies on therapeutic medications, to provide effective oversight.

“The basic premise and enforcement of drug regulation and testing among USADA participants and the athletes in horse racing are so divergent that it simply makes no sense,” Hamelback said.

Tygart believes THADA would bring true uniformity to drug testing in horse racing, which should be attractive to horsemen. The THA has spearheaded efforts for states to adopt the National Uniform Medication Program, which calls for a list of controlled therapeutic substances (currently 26), third-party

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—ERIC HAMELBACK

something we can instantaneously ban,” Tygart said. “The efficiencies the sport would see with a uniform system; it’s night and day compared to what’s going on now.”

Hamelback said horsemen like the current framework where individual states do not simply rubber-stamp Model Rules aimed at uniformity. He said the sport is working toward uniformity but the process in place is needed.

“The industry has never been more closely aligned and has never been closer to uniformity. To some, national uniformity has taken too long and as a result must be forced into jurisdictions which have resisted some of its provisions,”



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furosemide administration, a penalty system that increases sanctions against multiple offenders, and lab accreditation and participation in a quality assurance program.

NUMP supporters note 15 states accounting for more than 70% of U.S. handle have adopted it while detractors note that some states are at varying levels of progress toward implementing the full program, resulting in non-uniformity; and some have not adopted it.

Tygart believes THADA would not only create uniformity but maintain it going forward. The legislation calling for THADA oversight envisions uniform policies on medication, furosemide administration, penalties, and lab standards would become reality Jan. 1, 2017. Any policy changes could then quickly be implemented as opposed to waiting on state-by-state approval.

“When you find a new problem drug like Dermorphin—in some states it still hasn’t specifically been banned—that is

Hamelback said. “However, the Model Rules are fraught with problems, and as such, the reservations of holdout jurisdictions must be respected. With careful review by thoughtful state legislators, the Model Rules can and will be tweaked until a compromise can be reached, which will permit national uniformity.”

The introduced legislation uses the Interstate Horseracing Act of 1978 as a means to give THADA authority in racing, but it would not alter the legislation. Whether it is people actually not understanding how THADA would function or opponents choosing to distort how it actually would work, some have equated the bill to a Washington takeover. Tygart emphasized that would not be the case.

“We’re not a federal organization. We’re a 501(c)(3) non-profit organization based in Colorado Springs, Colo. We have an independent board of directors. Under this bill there would be no direct federal funding,” Tygart said. “So there’s no interference, no formal oversight on

decision-making authority by the federal government or any other governmental organizations. There's certainly no political involvement around decisions, and that's really important—having an independent board. The key is independence. Governments have no business doing this because their interests might be different than clean athletes' interests or the integrity-of-sport interests."

As for some details on how THADA oversight would work:

- The number of post-race tests conducted would remain the same for most jurisdictions, but Tygart believes most states would see a significant increase in out-of-competition testing under THADA, which each year would provide racing states with an estimate of such costs based on projected number of starters.

"I don't think many of them are doing true out-of-competition testing, and that's a significant problem," Tygart said. "I think you can strategize and be efficient in out-of-competition testing and in-competition testing. The goal is to keep it as low-cost as you possibly can but people need to realize that to do it right, there's a cost."

- THADA would send collected samples to labs that meet the current International Organization for Standardization requirements plus Racing Medication and Testing Consortium accreditation. Tygart said every current lab doing a good job would continue to have that opportunity.

- THADA would conduct quality assurance tests of participating labs. It would send labs samples with known substances in them to make sure the lab picks it up. It would make sure that labs are testing for all of the same substances and at the same levels.

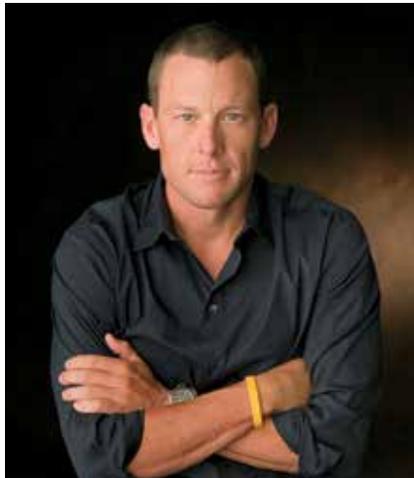
"It's amazing this isn't happening now," Tygart noted.

- Horsemen charged with medication violations could initially appeal to an independent review board. After that, he says they'd have the same ability they have now to pursue appeals through independent hearing officers.

- THADA would work with state regulators, racetracks, horsemen, and others on investigations aimed at staying ahead of cheaters.

Such investigations have been a USADA calling card. Tygart and USADA were lauded for their dogged pursuit of Armstrong.

"(Cheaters) can defeat the testing for a



Cyclist Lance Armstrong was eventually stripped of his seven Tour de France titles

time. So, given that, you have to have the investigative information, what we call the non-analytical information. And that information may just be to execute tests that you can do in a much more strategic fashion," Tygart said. "Or it may be like the Lance Armstrong case where it allows us to review test results that weren't previously reported by the sport and to build evidence that shows that these rules were intentionally violated and build the case on that."

Barry Irwin, chief executive officer of Team Valor International, says currently there is not a level playing field in horse racing. He says THADA's investigative capabilities would set it apart from state regulators.

"We need an outfit like USADA that has a history of going after people that are using drugs that aren't necessarily known or even have names yet," Irwin said. "I want to see some action on that front."

Tygart noted that one of the benefits of an independent organization is participants are more comfortable providing information without concern of reprisal.

"It's a really important point on the independence. What we've found, and I draw the analogy to the judges, commissioners, or others who can decide who gets a license and who doesn't, people are reluctant to go to the people that control it and say bad things about their competitors because they don't know when that's going to come back to hurt them," Tygart said. "The people making the decisions could be friends with the person in question, could own part of the stable.

So you have to remove those influences from the investigative aspect.

"We get that type of information all the time, and it allows us to effectively and efficiently use our resources, which we otherwise wouldn't be able to do."

Ed Martin, president of the Association of Racing Commissioners International, which is made up of state regulators and shapes model rules, said the current process provides public accountability.

"The ARCI is unanimous in its opposition to shielding racing regulatory authority from public accountability by putting it in the hands of a private organization," Martin said. "Equine welfare and medication policy should not be put in the hands of an entity with no experience with such matters and no veterinarian involvement. We strongly oppose the politicization of racing medication policies and are concerned that equine welfare policies will be trampled should this be enacted."

Citing declines in pari-mutuel wagering, studies that have shown fans are leaving horse racing, and shortages in owners, Tygart said the current model isn't working. He said other sports have faced similar challenges and after USADA took oversight in those sports, fan and participant confidence improved.

"Today, most importantly to us, clean athletes have hope and believe that they can win without having to use these drugs. So their health and safety are protected and their rights under the rule of sport are protected," Tygart said. "That inevitably has given more confidence and viewership. NBC just signed a \$7.5 billion deal with the Olympics to televise the games through 2032. That doesn't happen 20 years ago because NBC doesn't want to put on the 'drug games.' Around 1996, 1998, that was the image and perception out there.

"Those perceptions weren't all based on complete and accurate facts, but (the sports) had to do something to return the confidence the public had. I think that's no different than where horse racing is today. I talk to bartenders and taxi cab drivers when I travel, and I just ask them about horse racing—they don't know who I am or what I do—and the first thing out of their mouth is, 'Oh, horse racing is totally dirty.'"

"I think this sport is at a real crossroads. They can decide to do it right or I think suffer the consequences." **BH**